

REMARKS

This Amendment responds to the office action mailed on March 23, 2006. Claim 1 is amended. Claims 6, 11-16, 27, 33 and 39 are cancelled. Filed herewith is a Declaration Under 37 C.F.R. § 1.132 and a petition for a one month extension of time. Reconsideration is respectfully requested in light of the above amendments and the following remarks.

Claim Rejections under 35 U.S.C. § 101

Claims 1-9 and 19-27 stand rejected under 35 U.S.C. § 101, alleging that the claims are non-statutory as not being tangible. The Applicant respectfully disagrees. Nonetheless, claims 1 and 19 have been amended to specify that the recited methods are “computer implemented.” The Applicant submits that this amendment overcomes the rejections to claim 1-9 and 19-26 under 35 U.S.C. § 101. Claim 27 is cancelled.

Claim Rejections under 35 U.S.C. § 102(e)

Claims 1-6, 9-16, 19-20, 22-26, 28, 30-33 and 35-39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Pub. No. 2002/0161796 (“Sylthe”). The sole inventor of the Sylthe application, Olav A. Sylthe, is also a named inventor of the instant application. The Declaration Under 37 C.F.R. § 1.132 that is filed herewith establishes that the subject matter of rejected claims 1-5, 9, 10, 28, 30-32 and 35-38 were invented solely by Mr. Olav A Sylthe, and not by Jianwei Yuan. Claims 1-5, 9, 10, 28, 30-32 and 35-38 are therefore not an invention “by another,” as required under 35 U.S.C. § 102(e). The Sylthe reference is thus not prior art to these claims, and the Applicant respectfully requests that the rejection of claims 1-5, 9, 10, 28, 30-32 and 35-38 be withdrawn.

Regarding the rejection of claims 19-20 and 22-26, independent claim 19 has been amended to include the limitations of claim 27. Applicant submits that this amendment overcomes the rejection of claims 19-20 and 22-26 under 35 U.S.C. § 102(e).

The remaining claims rejected under 35 U.S.C. § 102(e) have been cancelled.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 7, 8, 17, 18, 21, 27, 29 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Sylthe reference in light of various other references. Independent claim 19 has been amended to include the limitations of claim 27, which has been cancelled.

The cited Sylthe reference and the instant application are commonly owned by the assignee, Arizan Corporation. The ownership of the instant application by the Arizan Corporation is evidenced by the Assignment recorded at Reel 014453, Frame 0531. The ownership of the Sylthe reference by the Arizan Corporation is evidenced by the Assignment recorded at Reel 013385, Frame 0785. Moreover, both Olav A. Sylthe and Jianwei Yuan were under an obligation at the time that the inventions were made to assign the inventions to the Arizan Corporation. The Sylthe reference is therefore disqualified as prior art under 35 U.S.C. § 103(c). See, MPEP 706.02(l)(1)(I) and 706.02(l)(3).

Conclusion

For the above reasons, the Applicant respectfully submits that claims 1-5, 7-10, 17-26, 28-32 and 34-38 are in condition for allowance. The Examiner is, therefore, respectfully requested to enter this Amendment and pass this case to issue.

Respectfully submitted,

JONES DAY

Joseph M. Sauer (Reg. No. 47,919)
Jones Day
North Point, 901 Lakeside Avenue
Cleveland, Ohio 44114
(216) 586-7506